

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RANDOLPH WALLACE BOULDEN,

Plaintiffs,

v.

MICHAEL FROSETH, *et al.*,

Defendants.

ORDER

07-cv-602-bbc

On June 6, 2008, plaintiff moved for leave to file a surreply in opposition to defendants' motion for summary judgment and for more discovery prior to filing his requested surreply. *See* dkts. 66 and 67. For the reasons stated below, I am denying both motions.

Section IV of the court's procedure governing summary judgment states that "A responding party shall not file a surreply without first obtaining permission from the court. The court only permits surreplies in rare, unusual situations." *See* Attachment to dkt. 17. The circumstances undergirding plaintiff's request for leave do not qualify as rare or unusual. Essentially, he wants the last word. *Every* litigant in this court wants the last word, so this is neither rare nor unusual. The party with the burden of persuasion on the motion gets the last word. Here, that would be the defendants.

As for plaintiff's motion for more discovery, he doesn't need court permission to obtain more discovery for *trial* because discovery continues until July 18, 2008. If plaintiff wants more discovery before filing a surreply, this now is a moot point because I am not allowing a surreply. In any event, the February 26, 2008 preliminary pretrial conference order extended *all* the deadlines in this case but then warned plaintiff that he would not get more time to respond to summary judgment just because he waited too long to get all of the information he thought he

needed to respond to defendants' summary judgment motion, *see* dkt. 17 at 6; it also warned him that if he did not bring discovery problems to the court's attention quickly, then he could not get more time to get more information to respond to a summary judgment motion, *see id.* at 9.

ORDER

It is ORDERED that plaintiff's motion for leave to file a surreply (dkt. 66) and for more discovery (dkt. 67) are DENIED.

Entered this 6th day of June, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge